
1995 Wis Eth Bd 2
EXPENSES; GIFTS; IMPROPER USE OF OFFICE; LOBBYING;
MEALS, LODGING, TRAVEL AND ENTERTAINMENT

Lobbying principals may furnish cash and in-kind contributions to a national organization or the Department of Development for the organization's annual meeting in Wisconsin. Wisconsin's officials may accept food and drink furnished at events that are provided, sponsored, or sanctioned by the national organization and authorized by the officials' agency. State officials generally may accept items that the national organization or the Department of Development furnishes. A state official should accept an item furnished by a vendor at the meeting only if the item is of insubstantial value and the vendor is not a lobbying principal.

OEB 95-2 (June 1, 1995)

Facts

[1] This opinion is based upon these understandings:

- a. A national organization of state officials is holding its annual meeting in Wisconsin.
- b. The Department of Development has been soliciting both cash and in-kind contributions to assist the state in hosting the event.
- c. State officials' attendance at the meeting will be with the officials' agency's approval and authorization through established procedures.

Questions

[2] The Ethics Board understands your questions to be:

1. May organizations and businesses that are lobbying principals in Wisconsin provide support for official functions of the national organization's annual meeting?
2. May Wisconsin officials accept items at the annual meeting that lobbying principals have donated to the Department of Development or to the national organization?

Discussion

[3] The Ethics Code and lobbying law generally prohibit state officials from accepting food, drink, and other items furnished to them in connection with holding public office or by lobbyists and lobbying principals. §§13.625 and 19.45, *Wisconsin Statutes*. The lobbying law also generally prohibits lobbyists and lobbying principals from furnishing anything of pecuniary value to an agency official, legislative employee, elective state official, or a candidate for elective state office. However, in the following circumstances, the statutes permit the furnishing and acceptance of items in connection with a national organization's annual meeting:

[4] Furnishing Items for the Annual Meeting

First, the lobbying law, §13.625, *Wisconsin Statutes*, prohibits a lobbying principal from furnishing anything of pecuniary value *only* to an agency official, legislative employee, elective state official, or a candidate for elective state office. It does not prohibit furnishing items or services to a national organization as long as such furnishing is not a mere subterfuge for furnishing items to state officials.¹ Thus, lobbying principals may furnish cash and in-kind support directly to the national organization for the meeting.

[5] Second, §§13.625(9) and 19.56(3)(e), *Wisconsin Statutes*,² specifically permit the furnishing of items and services to the Department of Development

¹ There is no suggestion that a furnishing in this instance is a subterfuge. The organization is a long-standing national organization, the annual meeting is a regular event, the national organization is the historical sponsor of the event, and the great majority of attendees will not be Wisconsin officials.

² Section 13.625(9), *Wisconsin Statutes*, provides:

13.625 (9) This section does not apply to the solicitation, acceptance, or furnishing of anything of pecuniary value by the department of development, or to a principal furnishing anything of pecuniary value to the department of development, under s. 19.56(3)(e) or (f) for the activities specified in s. 19.56(3)(e).

for the purpose of hosting conferences sponsored by multistate associations of governments or governmental officials. The national organization's annual meeting was the very type of event contemplated by these statutory provisions. Thus, lobbying principals may furnish cash and in-kind support to the Department of Development for the meeting.

[6] Attending Receptions at the Annual Meeting

Third, §19.56(3)(c), *Wisconsin Statutes*, permits state officials to accept food, drink, and other items on behalf of the state if the items are primarily for the benefit of the state. Usually, an agency's approval and authorization to attend a conference is sufficient to meet a state official's burden of showing that attendance at a conference is on behalf of the state and primarily for the state's benefit. 1992 Wis. Eth. Bd. 7; 1991 Wis. Eth. Bd. 11; 1991 Op. Eth. Bd. 10. The Ethics Board has said this generally means an official attending a conference on behalf of the state may accept meals, refreshment, and the like at receptions and similar events that are provided, sponsored, or sanctioned by the conference organizer and authorized by the official's agency. 1991 Wis. Eth. Bd. 10. Such events are part and parcel of conferences and conducive to informal discussion and the exchange of ideas. Conversely, state officials should not accept food or drink furnished at receptions and events not officially part of the conference and not specifically authorized by the officials' agency.

[7] Fourth, §19.56(3)(f), *Wisconsin Statutes*, also permits Wisconsin's officials to accept food, drink, and other items provided by Wisconsin's Department of Development.³

Section 19.56(3)(e), *Wisconsin Statutes*, provides:

19.56(3)(e) A state public official who is an officer or employe of the department of development may solicit, receive and retain on behalf of the state anything of value for the purpose of any of the following:

1. The sponsorship by the department of development of a trip to a foreign country primarily to promote trade between that country and this state that the department of development can demonstrate through clear and convincing evidence is primarily for the benefit of this state.

2. Hosting individuals in order to promote business, economic development, tourism or conferences sponsored by multistate, national or international associations of governments or governmental officials.

³ Section 19.56(3)(f), *Wisconsin Statutes*, provides:

19.56(3)(f) A state public official may receive and retain from the department of development anything of value which the department of development is authorized to provide under par. (e).

[8] Accepting Other Items at the Annual Meeting

In general, state officials may accept items given to the meeting's participants by the national organization or the Department of Development. However, since the State of Wisconsin is paying the cost of attendance, any such items that could be used by the state should be placed at the disposal of the officials' agency. 1993 Wis. Eth. Bd. 11. State officials should not for their private benefit accept items made available directly by vendors at the conference (and not by the national organization or the Department of Development) unless the items are of insubstantial value and the vendor is not a lobbying principal.

Advice

[9] The Ethics Board advises that, consistent with Wisconsin's Ethics Code and lobbying law, lobbying principals may furnish cash and in-kind contributions to a national organization or the Department of Development for the organization's annual meeting in Wisconsin. Wisconsin's officials may accept food and drink furnished at events that are provided, sponsored, or sanctioned by the national organization and authorized by the officials' agency. State officials generally may accept items that the national organization or the Department of Development furnishes. A state official should accept an item furnished by a vendor at the meeting only if the item is of insubstantial value and the vendor is not a lobbying principal.